

§ 712.16

10 CFR Ch. III (1–1–16 Edition)

for contractor and DOE employees, respectively.

(ii) Testing for use of alcohol in accordance with this section.

(2) Testing must be performed as soon as possible after an occurrence that requires immediate notification or reporting.

(3) The supervisor must remove an HRP-certified individual from HRP duties if the individual refuses to undergo the testing required by this section.

(e) *Testing for reasonable suspicion.* (1) If the behavior of an individual in an HRP position creates the basis for reasonable suspicion of the use of an illegal drug or alcohol, that individual must be tested if two or more supervisory or management officials, at least one of whom is in the direct chain of supervision of the individual or is the Designated Physician, the Designated Psychologist, or the SOMD, agree that such testing is appropriate.

(2) Reasonable suspicion must be based on an articulable belief, drawn from facts and reasonable inferences from those particular facts, that an HRP-certified individual is in possession of, or under the influence of, an illegal drug or alcohol. Such a belief may be based on, among other things:

(i) Observable phenomena, such as direct observation of the use or possession of illegal drugs or alcohol, or the physical symptoms of being under the influence of drugs or alcohol;

(ii) A pattern of abnormal conduct or erratic behavior;

(iii) Information provided by a reliable and credible source that is independently corroborated; or

(iv) Detection of alcohol odor on the breath.

(f) Counterintelligence Evaluation. HRP candidates and, when selected, HRP-certified individuals, must submit to and successfully complete a counterintelligence evaluation, which includes a polygraph examination in accordance with 10 CFR part 709, Polygraph Examination Regulations and any subsequent revisions to that regulation.

§ 712.16 DOE security review.

(a) A personnel security specialist will perform a personnel security file review of an HRP candidate and HRP-certified individual upon receiving the

supervisory review, medical assessment, and management evaluation and recommendation.

(b) If the personnel security file review is favorable, this information must be forwarded to the HRP certifying official. If the review reveals a security concern, or if a security concern is identified during another component of the HRP process, the HRP certifying official must be notified and the security concern evaluated in accordance with the criteria in 10 CFR part 710, subpart A. All security concerns must be resolved according to procedures outlined in 10 CFR part 710, subpart A, rather than through the procedures in this part.

(c) Any mental/personality disorder or behavioral issues found in a personnel security file, which could impact an HRP candidate or HRP-certified individual's ability to perform HRP duties, may be provided in writing to the SOMD, Designated Physician, and Designated Psychologist previously identified for receipt of this information. Medical personnel may not share any information obtained from the personnel security file with anyone who is not an HRP certifying official.

§ 712.17 Instructional requirements.

(a) HRP management officials at each DOE site or facility with HRP positions must establish an initial and annual HRP instruction and education program. The program must provide:

(1) HRP candidates, HRP-certified individuals, supervisors, and managers, and supervisors and managers responsible for HRP positions with the knowledge described in paragraph (b)(1) of this section; and

(2) For all HRP medical personnel, a detailed explanation of HRP duties and responsibilities.

(b) The following program elements must be included in initial and annual instruction. The elements may be tailored to accommodate group differences and refresher training needs:

(1) The objectives of the HRP and the role and responsibilities of each individual in the HRP to include recognizing and responding to behavioral change and aberrant or unusual behavior that may result in a risk to national security or nuclear explosive

Department of Energy

§ 712.19

safety; recognizing and reporting security concerns and prescription drug use; and an explanation of return-to-work requirements and continuous evaluation of HRP participants; and

(2) For those who have nuclear explosive responsibilities, a detailed explanation of duties and safety requirements.

§ 712.18 Transferring HRP certification.

(a) For HRP certification to be transferred, the individual must currently be certified in the HRP.

(b) Transferring the HRP certification from one site to another requires the following before the individual is allowed to perform HRP duties at the new site:

(1) Verify that the individual is currently certified in the HRP and is transferring into a designated HRP position;

(2) Incorporate the individual into the new site's alcohol and drug-testing program;

(3) Ensure that the 12-month time period for HRP requirements that was established at the prior site is not exceeded; and

(4) Provide site-specific instruction.

(c) Temporary assignment to HRP positions at other sites requires verification that the individual is currently enrolled in the HRP and has completed all site-specific instruction. The individual is required to return to the site that maintains his or her HRP certification for recertification.

§ 712.19 Removal from HRP.

(a) *Immediate removal.* A supervisor who has a reasonable belief that an HRP-certified individual is not reliable, based on either a safety or security concern, must immediately remove that individual from HRP duties pending a determination of the individual's reliability. A supervisor also must immediately remove an individual from HRP duties when requested to do so by the HRP certifying official. The supervisor must, at a minimum:

(1) Require the individual to stop performing HRP duties;

(2) Take action to ensure the individual is denied both escorted and

unescorted access to the material access areas; and

(3) Provide, within 24 hours, to the individual and the HRP management official, a written reason for these actions.

(b) The temporary removal of an HRP-certified individual from HRP duties pending a determination of the individual's reliability is an interim, precautionary action and does not constitute a determination that the individual is not fit to perform his or her required duties. Removal is not, in itself, cause for loss of pay, benefits, or other changes in employment status.

(c) *Temporary removal.* (1) If an HRP management official receives a supervisor's written notice of the immediate removal of an HRP-certified individual, that official must direct the temporary removal of the individual pending an evaluation and determination of the individual's reliability.

(2) If removal is based on a security concern, the HRP management official must notify the HRP certifying official and the applicable DOE personnel security office. The security concern will be resolved under the criteria and procedures in 10 CFR part 710, subpart A.

(3) If removal is based on a concern that is not security related, the HRP management official must conduct an evaluation of the circumstances or information that led the supervisor to remove the individual from HRP duties. The HRP management official must prepare a written report of the evaluation that includes a determination of the individual's reliability for continuing HRP certification.

(4) If the HRP management official determines that an individual who has been temporarily removed continues to meet the requirements for certification, the HRP management official must:

(i) Notify the individual's supervisor of the determination and direct that the individual be allowed to return to HRP duties;

(ii) Notify the individual; and

(iii) Notify the HRP certifying official.

(5) If the HRP management official determines that an individual who has been temporarily removed does not